

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

N.V.E., INC.,

Plaintiff,

v.

JESUS J. PALMERONI, et al.,

Defendants.

Civil Action No. 06-5455

ORDER AND JUDGMENT

JESUS J. PALMERONI,

Third-Party Plaintiff,

v.

**ROBERT OCCHIFINTO and WALTER
ORCUTT,**

Third-Party Defendants.

THIS MATTER comes before the Court on motions by (1) Defendants Darren Householder and Brand New Energy, Inc. (the “Householder Defendants”), Dkt. No. 582; (2) Defendants Ronald Sumicek and Sunbelt Marketing (the “Sumicek Defendants”), Dkt. No. 583; (3) Jesus Palmeroni, National Retail Consulting Group, and Global Marketing & Sales Group, LLC (the “Palmeroni Defendants”), Dkt. No. 585; and (4) Counterclaim Defendant N.V.E., Inc. and Third-Party Defendants Robert Occhifinto and Walter Orcutt, Dkt. No. 590;

and the Court having held oral argument on the motions on January 26, 2017;

and for the reasons set forth on the record on that date;

IT IS, on this 27th day of January, 2017,

ORDERED that the Householder Defendants' motion for summary judgment, Dkt. No. 582, is **GRANTED** and judgment is entered in their favor on Count 9 (Civil Conspiracy); and it is

ORDERED that the Sumicek Defendants' motion for summary judgment, Dkt. No. 583,¹ is **GRANTED** and judgment is entered in their favor on Count 7 (Fraud) and Count 9 (Civil Conspiracy); and it is

ORDERED that the Palmeroni Defendants' motion for judgment on the pleadings, Dkt. No. 585, is **GRANTED** and judgment is entered in their favor on Count 1 (Federal Racketeering Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. §§ 1961, et seq.), Count 2 (Federal RICO), Count 3 (N.J. RICO, N.J.S.A. §§ 2C:41-1, et seq.), Count 4 (N.J. RICO), and Count 5 (N.J. RICO Conspiracy); and it is

ORDERED that N.V.E., Mr. Occhifinto, and Mr. Orcutt's motion for summary judgment, Dkt. No. 590, is **GRANTED** and judgment is entered in their favor on all counterclaims and third-party claims asserted by Jesus Palmeroni and the Sumicek Defendants; and it is further

ORDERED that N.V.E. shall file any supplemental papers by **Friday, February 3, 2017**, and Defendants shall file their response by **Friday, February 10, 2017**.

/s Madeline Cox Arleo
MADELINE COX ARLEO
United States District Judge

¹ The Sumicek Defendants filed their motion as one for judgment on the pleadings under Fed. R. Civ. P. 12(c), but the Court converted it to a motion for summary judgment at N.V.E.'s request. See N.V.E. Opp'n Br. at 2-5, Dkt. No. 610; see also Hilinski v. Gordon Terminal Serv. Co. of N.J., 265 F. App'x 66, 68 (3d Cir. 2008) (affirming conversion of Rule 12(c) motion into summary judgment motion).